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JUL 23 2007
U.S. PATENT & TRADEMARK OFFICE

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number
111788-00101

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on _____

Signature _____

Typed or
printed
name _____Application Number
09/765,431

First Named Inventor

William Johns et al.

Art Unit
2152Received
TRADEMARK
January 22, 2001Examiner
L. D. T. Truong

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s)

Note: No more than five (5) pages may be provided.

I am the

 Applicant/inventor

Signature

 Assignee of record of the entire interest
See 37 CFR 3.71. Statement under 37 CFR 3.73(b)
is enclosed. (Form PTO/SB/96)

David J. Edmondson

Typed or printed name

 Attorney or agent of record
Registration number 35,126

202-772-5800

Telephone number

 Attorney or agent acting under 37 CFR 1.34
Registration number if acting under 37 CFR 1.34

July 23, 2007

Date

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

 *Total of 1 forms are submitted.



PATENT
ATTORNEY DOCKET NO.: 111788.00101

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)
William M. JOHNS et al.)
Serial No. 09/765,431)
Confirmation No.: 9036) Group Art Unit: 2152
Filed: January 22, 2001) Examiner: Lan Dai T. Truong
For: SYSTEM AND METHOD FOR)
CONTINUOUS MONITORING AND)
MEASUREMENT OF PERFORMANCE)
OF COMPUTERS ON NETWORK)

STATEMENT IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

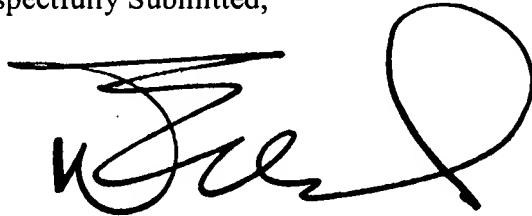
Sir:

In support of the Pre-Appeal Brief Request for Review filed concurrently herewith, the Applicants, through undersigned counsel, hereby make the following statement.

The Applicants respectfully disagree with the grounds of rejection, since *Curley et al* does not teach all of the features for which the Final Rejection relies on it, particularly determining a response for *each* segment of the network. Because that teaching is absent from *Curley et al*, and because the other applied references do not overcome that deficiency, the Applicants respectfully submit that none of the applied combinations of references would have resulted in, taught or suggested the present claimed invention.

Please charge any shortage of fees, or credit any overpayment thereof, to BLANK ROME LLP, Deposit Account No. 23-2185 (111788-00101). In the event that a petition for an extension of time is required to render this Amendment timely, and in the event that a separate petition either does not accompany this Amendment or is insufficient to render this Amendment timely, the Applicant hereby petitions under 37 C.F.R. § 1.136(a) for an extension of time for as many months as are required to render this Amendment timely. Any fee due is authorized above.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "David J. Edmondson".

David J. Edmondson
Registration No. 35,126

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